

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Docket: ZALEVSKY4

In re Application of:)	Conf. No.: 2605
)	
Zeev ZALEVSKY et al)	Art Unit:
)	
Appln. No.: 10/565,623)	Examiner:
)	
Filed:)	Washington, D.C.
)	
For: METHOD FOR PRODUCTION OF)	December 5, 2006
MICOR-OPTICS STRUCTURES)	

PETITION UNDER 37 C.F.R. §1.47(a)

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building, Mail Stop Petition
401 Dulany Street
Alexandria, VA 22314

Sir:

Pursuant to 37 C.F.R. §1.47(a), applicants hereby petition for acceptance of the present application without the signature of three inventors who refuse to join in the application. Attached hereto are declarations of the other inventors on behalf of themselves and the non-signing inventors.

STATEMENT OF FACTS INVOLVED

The above identified application is the National Stage of International application no. PCT/IL2004/000678, filed July 25, 2004. Papers for National Stage entry into the United States were deposited at the Patent and Trademark

Office (PTO) on January 24, 2006. A notice of missing parts was issued on May 5, 2006.

The PCT publication lists five individuals as applicants/inventors for U.S. only, namely, Zeev Zalevsky, Vardit Eckhouse, Izhar Eyal, Arkady Rudnitsky, and Nadav Cohen. The name of Yuval Kapellner was listed on this publication as being an applicant for all designated states except the United States, along with the company Ex-Play, LTD. It has been determined that the inclusion of Mr. Kapellner's name as an applicant for all designated states except the U.S., and not in the list of inventors and inventors/applicants for the U.S., was an inadvertent error made upon filing of the PCT application. Indeed, Mr. Kapellner is also an inventor and should have been listed among the inventors/applicants for the U.S. This error is being corrected in a separate document. For the purpose of this petition, the present application has six inventors as stated on the attached declarations, which will be discussed below.

Applicants have been able to receive executed declarations from three of the six inventors. At the time that the declarations of Zeev Zalevsky and Nadav Cohen were executed, it was thought that inventor Vardit Eckhouse also refused to sign. Subsequent to the execution of the declarations by Mr. Zalevsky and Mr. Cohen, we were able to receive a declarartion executed by Vardit Eckhouse. Each of these three inventors signed the declarations on their own

behalf and on behalf of the non-signing joint inventors.
These declarations are submitted herewith.

On October 24, 2006, certified letters were sent to each of the three non-signing inventors, enclosing a copy of the PCT publication and the U.S. National Phase application papers, as well as a copy of declaration and assignment forms for execution. These letters were sent by certified mail, return receipt requested. (See Declaration of Svetlana Shtadler, filed herewith.)

Subsequently, postcard receipts were received indicating that all three of these individuals picked up the registered letters from the Post Office. It can be seen that inventor Eyal collected his letter on November 5, 2006, inventor Rudnitsky collected his letter on October 30, 2006, and inventor Kapellner picked up his letter in October 30, 2006. (See the attached declaration of Svetlana Shtadler, and particularly Exhibits D, E, and F thereof.)

Previously, letters had been received from inventors Eyal and Kapellner confirming or suggesting that they are refusing to sign. (See Declaration of Daniel Olieski, submitted herewith, and particularly Exhibits H, I, J, and K thereof.)

POINTS TO BE REVIEWED AND ACTION REQUESTED

As the accompanying evidence establishes that Izhar Eyal, Arkady Rudnitsky, and Yuval Kapellner refuse to execute the present application and all of the requirements of 37

C.F.R. §1.47(a) have been complied with, it is requested that the present application be accepted as having been made by the other inventors on behalf of themselves and the omitted inventor in accordance with 35 U.S.C. §116 and 37 C.F.R. §1.47(a).

MEMORANDUM IN SUPPORT

37 C.F.R. §1.47(a) provides that if a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the non-signing inventor. The declaration must be accompanied by a petition, including proof of the pertinent facts, the fee of \$200.00 as set forth in §1.17(g), and the last known address of the non-signing inventor.

Declarations signed by the three other inventors on their behalf and on behalf of the non-signing inventors are filed on even date herewith, along with an authorization to pay the fee of \$200.00 required by 37 C.F.R. §1.17(g). Please charge any deficiency to deposit account no. 02-4035 of the undersigned.

Also filed herewith are Declarations of Svetlana Shtadler and Daniel Olieski, setting forth the relevant facts and submitting the relevant documentary evidence. All of the necessary documents, including the entire PCT application and the combined declaration and power of attorney for their signature, were sent to each of the three recalcitrant

inventors by registered mail, return receipt requested, on October 24, 2006 (see the Shtadler declaration submitted herewith). All of the letters were promptly collected by the recalcitrant inventors, but no response was received from them thereafter. The executed declarations were not returned.

All of the above facts, as evidenced by the Shtadler declaration, and the accompanying exhibits, establish that the actions of Mr. Eyal, Rudnitsky, and Kapellner constitute a refusal.

Furthermore, inventors Eyal and Kapellner had previously indicated that they would refuse to sign and explained why in letters to the assignee. See the Olieski declaration submitted herewith and the accompanying exhibits.

As stated by Mr. Olieski, CEO of the assignee, Ex-Play LTD., the letters from Eyal and Kapellner, combined with the fact that the documents were received by all of Eyal, Kapellner and Rudnitsky but the executed documents were never returned, establish that these three inventors refuse to sign the declaration documents.

As indicated in the attached declarations by the three other inventors, Izhar Eyal's last known address is 7 Shlomo Ben Yosef Street, 59402 Bat-Yam, Israel; Arkady Rudnitsky's last known address is 38 Gluskin Street, 76740 Rehovot, Israel; and Yuval Kapellner's last known address is 2/2 Hadadi Street, 59513 Bat Yam, Israel.

CONCLUSION

As all of the requirements of 37 C.F.R. §1.47(a) have been met, granting of this petition and acceptance of the present application are earnestly solicited.

Respectfully submitted,

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